

Message Text

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PAGE 01 VIENNA 07810 261530Z

ACTION SCS-03

INFO OCT-01 EUR-12 ISO-00 SCA-01 L-03 DEAE-00 SNM-02

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FM AMEMBASSY VIENNA

TO SECSTATE WASHDC 3079

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EO 11652: N/

TAGS: CARR

SUBJ: ARRESTEE AND PRISONER SERVICES: DEPORTATION OF PETTY
NARCOTICS OFFENDERS

REF: STATE 194251

1. WE TOOK UP SUBJECT WITH RESPONSIBLE OFFICIALS IN VIENNA
PROVINCIAL CRIMINAL COURT AND FEDERAL MINISTRY OF INTERIOR WITH
VIEW TO REVIEWING HOST GOVERNMENT LAWS AND PRACTICES WITH
REGARD TO DEPORTATION/EXPULSION OF ALIEN PETTY OFFENDERS AND
MADE PERTINENT POINTS REGARDING USG ATTITUDES ON SUBJECT.

2. SUMMARY OF SITUATION OBTAINING IN AUSTRIA AS FOLLOWS:

(A) AUSTRIAN LAW DOES NOT PROVIDE FOR DEPORTATION/EXPULSION OF
ANY ALIEN PETTY OFFENDER AS ALTERNATIVE TO PROSECUTION. UNDER
NEW AUSTRIAN LAW THAT WENT INTO EFFECT IN JANUARY 1975,
HOWEVER, PETTY FIRST TIME OFFENDERS ARE NOT NORMALLY TAKEN INTO
CUSTODY PENDING TRIAL. SENTENCING USUALLY RESULTS IN FINES OR
SUSPENDED SENTENCES RATHER THAN JAIL TERM. FIRST-TIME PETTY
NARCOTICS OFFENDERS FOUND IN POSSESSION OF NO MORE THAN ONE
WEEK'S SUPPLY OF DRUGS FOR PERSONAL USE ARE NOT PROSECUTED IF
THEY VOLUNTARILY SUBMIT TO WITHDRAWAL TREATMENT, OR COURT
APPOINTED PHYSICIAN DECLARES THEM TO BE NON-ADDICTS.

(B) THE PRACTICE IT APPEARS THAT AUSTRIAN POLICE DO NOT OFTEN
ARREST NON-AUSTRIAN FIRST-TIME OFFENDERS FOUND IN
POSSESSION OF SMALL SUPPLY OF DRUGS FOR PERSONAL USE.

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PAGE 02 VIENNA 07810 261530Z

SUCH PERSONS ARE USUALLY QUESTIONED AND RELEASED AND ARE
NOT PREVENTED FROM DEPARTING AUSTRIA.

SUBSEQUENTLY REPORT IS MADE TO COMPETENT COURT WHICH MAY
THEN EITHER PLACE NAME OF PETTY OFFENDER ON AUSTRIAN
LOOKOUT/WANTED LIST AND DISCONTINUE ACTIVE PROCEEDINGS PENDING
REAPPEARANCE OF OFFENDER IN AUSTRIA OR DEACTIVATE CASE
EVEN WITHOUT PLACING NAME OF OFFENDER ON WANTED LIST.

3. WE FIND AUSTRIAN POSITION TO BE HUMANE, PRACTICAL
AND CONSISTENT WITH USG VIEWS STATED REFTEL. WE THINK
IT WOULD BE SERIOUS MISTAKE, HOWEVER, TO PUBLICIZE
AUSTRIAN LENIENCY WITH REGARD TO "SMALL-TIME" OFFENDERS
AS IT MIGHT PROVE COUNTER-PRODUCTIVE BY (A) CAUSING
EMBARRASSMENT TO GOA WITH DOMESTIC DEMANDS FOR
TOUGHENED STANCE AND (B) IDENTIFYING VIENNA AS ATTRACTIVE
PLACE "TO DO ONE'S THING" WITH IMPUNITY.BORG

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